

## **GENERAL CONDITIONS**

## SANDY CITY SPECIFICATIONS AND STANDARD DETAILS GENERAL CONDITIONS - CONSTRUCTION PROJECTS

### **PART 1.00 GENERAL TERMS**

#### **1.01 INTRODUCTION AND DEFINITIONS**

- A. **Introduction:** The following Sandy City Specifications and Standard Details: General Conditions-Construction Projects (General Conditions) are standards governing the construction of public works improvements within Sandy City, including, but not limited to, the construction and installation of roads, streets, curbs, gutters, sidewalks, drainage systems, water systems and landscaping applicable to contractors which contract with the City, and those who perform such work by contract with others. In extraordinary circumstances alternative standards may be allowed, where justified, upon written approval in the reasonable discretion of the Sandy City Engineer.
- B. **Definitions:** In the interpretation and construction of these Specifications and the Contract, or in any documents or instruments dealing with the construction operations governed by these Specifications, the following words, terms and abbreviations, or pronouns in place of them shall each be defined as follows:
1. **ACCEPTABLE ALTERNATE:** In order to establish a basis of quality for some items in the Work, certain processes, types of machinery and equipment, brands, or kind of material may be mentioned on the Approved Plans by designating a manufacturer by name and referring to his brand or model numbers. Such mention is not intended to exclude Materials. If the Contractor desires to use other Materials as equal thereto, he shall secure written approval from the Engineer before entering an order therefor. Wherever in the Specifications a manufacturer's name, brand or model is mentioned, it is to be understood that the phrase "acceptable alternate" is assumed to follow thereafter whether or not it does in fact, provided that any such alternate product is first approved in writing by the Engineer.
  2. **ADDENDA:** Written or graphic documents issued and signed or initialed by the Engineer which clarify, correct or change the Contract Documents.
  3. **AGREEMENT:** The duly executed written agreement between City and a contractor covering the performance of the Work and the furnishing of labor, material, tools and equipment in the construction of the Work. Other Contract Documents may be attached to or referred to in the Agreement and made a part thereof as provided therein. The Agreement shall include those documents specifically referred to in the signed document between the parties, and shall include, unless the context clearly indicates otherwise, the Sandy City Standard Specifications for Municipal Construction, Bid or Proposal, Approved Plans and Specifications, Special Conditions, Bonds and other security, also any and all supplemental agreements or change orders
  4. **APPROVED PLANS:** The final construction drawings, plan, profiles, typical cross-sections, grading, drainage and utility plans, specifications and materials, and

supplemental drawings, or reproductions thereof, which show the location, character, dimensions and details of work to be performed. All such documents are to be considered as a part of the plans whether attached to the Specifications or separate therefrom.

5. AS-BUILT DRAWINGS: Drawings which show the Project as actually constructed, and which include any and all changes made to the construction plans before and during construction.
6. AWARD: The written notice by the City to the apparent successful bidder stating that contract documents will be forthcoming upon compliance with the conditions enumerated therein.
7. BID: The offer of the bidder for the Work when prepared and submitted in the bid form prescribed by the City, properly signed and guaranteed.
8. BIDDER: Any individual, partnership, limited liability company, firm, corporation, governmental entity or person submitting a bid for the Work contemplated, acting directly or through a duly authorized representative.
9. BOND: The written instrument by which a surety is responsible for the bidder's acts in the submission of a bid, including the execution of the contract, and the submission of bonds required therein, or which is bound with and for the Contractor to insure performance of the Contract, or the payment of all obligations pertaining to the Work, and the fulfillment of such other conditions as may be specified or required by law or agreement.
10. CHANGE ORDER: A document, which is signed by authorized representatives of the Contractor and the City and which authorizes an addition, deletion or revision in the Work, or an adjustment in the sum due the Contractor, or the Project completion time, issued on or after the date of the Agreement.
11. CITY INSPECTOR: The authorized representative of the City or Engineer assigned to make detailed inspections of the Work performed, or of materials furnished by the Contractor.
12. CITY/OWNER: Wherever, in the Contract Documents the word "City" or "Owner" appears, it shall be interpreted to mean "Sandy City", unless otherwise denoted.
13. CITY TRANSPORTATION ENGINEER: It is the general duty of the City Transportation Engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of this city and as directed by the City Council.
14. CONSULTING ENGINEER: This term shall mean a licensed engineer or an authorized member of a licensed engineering firm retained by the City for design, construction engineering, or inspection of the Work.

15. CONTAMINATION: The intentional or negligent placement or release upon property of Hazardous Materials.
16. CONTRACT DOCUMENTS: The written agreement between the City and the Contractor by which the Contractor agrees to perform the Work and furnish the labor, materials, tools, and equipment in the performance of the Work. The Contract Documents shall include, but not be limited to (unless the context clearly indicates otherwise), the Sandy City Specifications, Notice to Contractors, Request for Bids, the Contractor's Bid, Approved Plans and Specifications, Special Conditions and Contract Bonds, and attached Exhibits; also any and all supplemental agreements amending or extending the Work contemplated. Supplemental agreements are written agreements covering alterations, amendments or extensions to the contract and include contract Change Orders.
17. CONTRACT PRICE: For the purpose of awarding the contract and determining the amount of all bonds, the total amount of the bid and the full amount of the contract price will be, where applicable, the summation of the products of the quantities shown in the bid by the bid price for each item in the bid, and the cost of all other items which the Contract Documents require of the Contractor, including State sales or use tax, whenever applicable. The Contract Price includes the cost of the Work specified in the Contract Documents, plus the cost of all bonds, insurance, permits, fees, and all charges, expenses or assessments of whatever kind of character.
18. CONTRACTOR: The Contractor is the individual, person, or organization responsible for doing the Work. The Contractor is further defined as the individual, firm, co-partnership or corporation, and his, their, or its heirs, executors, administrators, successors and assigns, or the lawful agent of any such individual firm, partnership, covenant or corporation, or his, their, or its surety under the contract bond, which constitutes one of the principals to the contract and undertaking to perform the Work herein specified. Where any pronoun is used as referring to the word "Contractor" it shall mean the Contractor as defined above.
19. CULVERT: An enclosed drainage structure extending across and beneath a highway, street, driveway, alley or railroad and not a part of the roadway surface which provides a passage for water or traffic.
20. DAYS: Unless otherwise designated, days as used in the Specifications will be understood to mean calendar days including weekends and holidays.
21. DIRECTOR OF PUBLIC UTILITIES: The appointed Sandy City official in direct charge of public utility operations and facilities in Sandy City.
22. DIRECTOR OF PUBLIC WORKS: The appointed Sandy City official in direct charge of public works operations and facilities in Sandy City.
23. DISTRICTS: An area or region defined by various utility companies and their limits of service. See Appendix B for a partial listing of districts.

24. DISTRICT ENGINEER: The engineer, including authorized assistants, who represents a utility district.
25. DISTRICT INSPECTOR: The authorized agent of the District or District Engineer assigned to make detailed inspections of any or all portions of the utility construction.
26. DRAWINGS: The drawings, profiles section and details, or exact reproductions thereof, approved by the Engineer, which show the location, character, dimensions and details of the Work.
27. EMERGENCY: Any unforeseen circumstance or occurrence for which adequate preparations could not reasonably have been made, the occurrence of which constitutes a clear and immediate danger to persons and/or property, or which causes interruption of utility services, or any act of God, war, insurrection, invasion, tumult, riot, or public disaster, or imminent danger of any of these, civil commotion, conflagration, or other similar occurrence resulting in a clear and immediate danger to persons and/or property.
28. ENGINEER: The City Engineer, or his or her representative, as designated to the Contractor in writing.
29. EXTRAS: Project Work in addition to the original scope of the contract documents initiated by the Engineer through means of a change order.
30. HAZARDOUS MATERIALS. (a) Any substances defined, regulated or listed (directly or by reference) as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic waste," "pollutant," "contaminant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to any of the following statutes: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq. ("CERCLA"); (ii) the Hazardous Materials Transportation Act, 49 U.S.C. §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; (iv) the Clean Water Act, 33 U.S.C. §1251 et seq.; (v) the Clean Air Act, 42 U.S.C. §7401 et seq.; (vi) the Toxic Substances Control Act, 15 U.S.C. §2601 et. seq.; (vii) the Utah Air Conservation Act, U.C.A. §26-13-1 et. seq.; (viii) the Utah Water Pollution Control Act, U.C.A. §26-11-1 et. seq.; (ix) the Utah Safe Drinking Water Act, U.C.A. §26-12-1 et. seq.; (x) the Utah Solid and Hazardous Waste Act, U.C.A. §26-14-1 et. seq.; (xi) the Utah Hazardous Substance Mitigation Act, U.C.A. §19-6-301 et. seq.; (xii) the Utah Underground Storage Tank Act, §19-6-401 et. seq.; and/or (xiii) any amendments to such enumerated statutes or acts; and  
  
(b) any other hazardous or toxic substance, material, chemical, waste, contaminant or pollutant identified as hazardous or toxic or regulated, under any other applicable federal, State or local environmental laws, including, without limitation, friable asbestos, polychlorinated biphenyl ("PCBs"), petroleum, natural gas and synthetic fuel products and by-products.
31. LAND SURVEYOR: One who is duly registered with the State of Utah Division of Occupational and Professional Licensing to perform land surveying within the State.
32. LAW: Any applicable City, County, State, or Federal statutes or regulations governing anything relating to the Work embodied in the Agreement.

33. LIQUIDATED DAMAGES: The amount prescribed in the Contract Documents to be paid the City, or to be deducted from any payments due or to become due the Contractor, for each day's delay in completing the whole or any specified portion of the Work beyond the time allowed in the Contract Documents.
34. MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD): MUTCD is published by the Federal Highways Administration and the United States Department of Transportation.
35. MATERIALS: The term "Materials" when used herein shall include supply items, types of machinery and equipment required or used in the Work.
36. PAVEMENT: The uppermost layer of bituminous or Portland-cement concrete material placed on the traveled way or shoulders for a riding surface, whether rigid or flexible in composition. This term is used interchangeably with "surfacing."
37. PAYMENT BOND, PERFORMANCE BOND: The approved form of security furnished by the Contractor and its surety, as required in the Contract Documents guaranteeing respectively, payment and completion of Work.
38. PROJECT ACCEPTANCE FOR MAINTENANCE: The date specified in writing by the Engineer when all work, including all punch list work designated by the Engineer, is complete and accepted by the City, and proof is submitted by the Contractor to the Engineer that the performance bond has been extended to cover the one-year guarantee period.
39. PROJECT FINAL ACCEPTANCE: The date specified in writing by the Engineer when all work, including all punch list work designated by the Engineer, is complete and accepted by the City after the completion of the warranty period following the Project Acceptance for Maintenance.
40. PROJECT MANUAL: The bound document package prepared for bidding and constructing the Project.
41. PUBLIC UTILITY: Any gas, electricity, sewer, water, telephone, cable television, or telecommunications facility lawfully installed or located in a public way.
42. REFERENCE SPECIFICATIONS: Those bulletins, standards, rules, methods of analysis or test codes and specifications of other agencies, engineering societies, or industrial associations referred to in the Contract Documents. Unless otherwise indicated, these refer to the latest edition, including amendments in effect and published at the time of advertising the Project for bid or issuing the permit, unless specifically referred to by edition, volume or date.
43. RIGHT-OF-WAY: Means and includes all public rights-of-way and easements, public footpaths, walkways and sidewalks, streets, roads, highways, alleys, and water or drainage ways. It does not, however, include utility easements not within Public Ways of the City.

- 44. SHOP DRAWINGS: Drawings, diagrams, illustrations, schedules, brochures, standards performance charts, instructions, or other information prepared by or for the Contractor and submitted to the City to illustrate what materials, equipment or work is to be performed for any portion of the Agreement.
- 45. SPECIAL PROVISIONS: Additions and revisions to the standard and supplemental specifications covering conditions peculiar to an individual project.
- 46. SPECIFICATIONS: Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.
- 47. STANDARD DETAILS OR PLANS: The illustrative and extended treatment of or attention to particular items which accompany the Construction Specifications.
- 48. STREET: The entire width between the boundary lines of the road or way which is owned, maintained and open to the use of the public for use as a thoroughfare, or which is the principal means of access to abutting property. The entire width of every way defined as a public street or highway by the laws of this City or State.
- 49. UBCONTRACTOR: The individual, firm, partnership or corporation to whom the Contractor subcontracts any part of the Work covered by the Contract Documents.
- 50. SUBGRADE: That portion of the roadbed surface which has been prepared, as specified, and upon which a layer of specified roadbed material or base, or subsurfacing, or pavement is to be placed.
- 51. SUBSTANTIAL COMPLETION: The point at which, in the opinion of the Engineer as evidenced by Engineer's written notice to the Contractor, the Work (or specified part thereof) has progressed to where it is in a state of completion in accordance with the Contract Documents and Standard Specifications, so that the City can reasonably and safely utilize the facility for the use for which it is intended, and only occasional construction personnel and equipment are required for correcting unfinished or defective work. The remaining work will not interfere with the work area's intended use or occupancy.
- 52. SUPPLEMENTAL SPECIFICATIONS: Those specifications adopted after the Standard Specifications and Details for Municipal Construction, which generally involve alterations to existing construction items, new construction items, or substantial changes to the Standard Specifications and Details for Municipal Construction.
- 53. SURFACING: The uppermost layer of material placed on the traveled way or shoulders, and is usually of asphalt or concrete. This term is used interchangeably with "pavement."
- 54. TRAFFIC CONTROL DEVICES: Fixed or portable signs, signals, street lights, barricades, guard rails, pavement markings, channelization and other equipment or materials used for the purpose of regulating, warning and guiding pedestrian and vehicular traffic. All devices, and placement of devices, shall conform with the most current edition of the MUTCD.

- 55. TRAVELED WAY: That portion of the roadway intended for movement of vehicles.
- 56. WORK: The term "Work" means the construction and services required by contract, or where there is no contract, labor and materials comprising the project, and includes all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations to construct a project.
- 57. WORKMANSHIP: The level of quality of work accomplished on the Project through:
  - 58. The Contractor's maintenance of performance control and supervision over subcontractors, suppliers, manufacturers, products, services, and site conditions to produce work in accordance with Contract Documents.
  - 59. Compliance with industry standards except when more restrictive tolerances or specified requirements indicate more rigid standards or more precise workmanship.
  - 60. Provide suitable qualified personnel to produce specified quality.
- C. Revisions of Standards and Specifications: Technical Specifications produced by industrial or trade associations which are referred to in this document (ASTM, AASHTO, ANSI, AWWA, etc.) are those Specifications as they appeared at the time the Contract Documents are signed. In the event a specific technical standard or specification is revised or renumbered by the association preparing the standards, this document shall incorporate those changes as well, unless specifically referred to herein by edition, volume or date.
- D. Pronouns and Plurals: Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. Each of the foregoing genders and plurals is understood to refer to a corporation, partnership or other legal entity when the context so requires.

## **PART 2.00 CONTROL OF THE WORK**

### **2.01 AUTHORITY OF THE ENGINEER.**

The Engineer shall decide all questions which may arise as to the quality or acceptability of materials furnished, the Work performed, the rate of the progress, questions which may arise as to the interpretation of the Contract Documents, and all questions as to the acceptable fulfillment of the contract on the part of the Contractor and regarding compensation.

### **2.02 CONFORMITY WITH CONTRACT DOCUMENTS, ALLOWABLE DEVIATIONS AND INCIDENTAL WORK.**

- A. Work and materials shall conform to the lines, grades, dimensions and material requirements, including tolerances, shown in the Contract Documents. Although measurements, sampling and testing may be considered evidence as to such conformity, the Engineer shall be the sole judge of whether the Work or materials deviate from the Contract Documents and Engineer's decision as to any allowable deviations therefrom shall be final and binding on Contractor. Deviation from approved Contract Documents, will be approved in a signed writing by the Engineer.

- B. All minor details of work which are not shown in the Contract Documents, but which are clearly necessary for the proper completion of the Work, shall be considered as incidental, and as being a part of and included with the Work for which prices are given in the bid, and no extra compensation shall be allowed the Contractor for the performance thereof.
- C. The intent of the Contract Drawings is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all.

2.03 COORDINATION AND INTERPRETATION OF DRAWINGS, GENERAL CONDITIONS, SPECIFICATIONS AND SPECIAL PROVISIONS.

- A. In the case of conflict in the Contract Documents, the documents shall govern in the following order:
  - 1st---Change Orders or Supplemental Agreements
  - 2nd--The Agreement, including the Bid Forms
  - 3rd---Addenda to the Drawings and/or Specifications
  - 4th---Special Provisions
  - 5th---Drawings
  - 6th---Specifications and Standard Plans
  - 7th---General Conditions
  - 8th---Community Development Block Grant General Conditions  
Federal Wage Rates, Equal Opportunity Requirements or  
other Federal Requirements, if any.
- B. Should it appear that the Work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Contract Documents, the Contractor may request that the Engineer to provide further explanations.
- C. In the event of any discrepancy between the measured dimensions on any drawing and the written dimensions shown thereon, the written dimensions shall be taken as correct. Detail drawings for each trade or item of work shall prevail over general drawings.
- D. Any part of the Work which is not mentioned in the specifications, but is shown on the drawings, shall be furnished and installed by Contractor as if fully described in the specifications.

2.04 SUPERINTENDENCE.

- A. When the Contractor is comprised of two (2) or more persons, firms, partnerships or corporations functioning on a joint-venture or partnership basis, said Contractor, before starting work, shall designate in writing the name of a representative who shall have the authority to act and bind both firms of the Contractor at all times while Work is in progress.
- B. Whenever the Contractor's authorized representative designated in the construction contract is not present at the work site, the Engineer's directions, to the Contractor's superintendent, foreman or employee who has charge of the particular part of the work addressed by the Engineer shall have the same effect as though the Engineer gave the direction to the Contractor's Representative.

- C. When work is not in progress and during periods when work is suspended, the Contractor shall make arrangements acceptable to the Engineer for any emergency work which may be required at the instance of the Contractor or the Engineer.

#### 2.05 CONSTRUCTION STAKING.

Contractor will be responsible at its sole cost for all construction staking. Contractor will insure that all construction is accomplished in accordance with the details, lines, grades, and elevations provided by the drawings. City will designate monuments and bench marks to be used by the Contractor in Project measurements and staking. However, the City will not provide or pay for additional construction staking for the Project. The City reserves the right to check and verify all staking.

#### 2.06 INSPECTION

- A. All work shall be inspected by a City authorized Inspector. Whenever any portion of these Specifications and Contract Documents is violated, the Engineer, by written notice to the Contractor, may order that portion of construction which was violated to cease until the violation is corrected, Contractor shall promptly correct all such deficiencies ordered by the Engineer but may object and explain its reasons therefore. A copy of the notice may be filed with the Contractor's license application for future review. If deficiencies are not promptly corrected, the City may require performance by the Contractor's Surety. Under no circumstances shall the presence, observations or testing by the City's authorized representative(s) be construed as approval or acceptance or waiver of the Contractor's failure or refusal to fully comply with the requirements of the Project plans and specifications.
- B. The Engineer may assign such assistants as he may deem necessary to inspect the materials to be furnished and the Project Work and to see that the Work strictly conforms to the Contract Documents.
- C. The Contractor shall, when it reasonably can, make application for review of the Work by an inspector at least forty-eight (48) hours before the inspector's services are required.
- D. Any Work not in accordance with the Contract Documents of which the City gives the Contractor notice before the Project acceptance shall be promptly corrected at Contractor's sole expense. Inspection by the Engineer shall not relieve the Contractor of its responsibility to furnish materials and workmanship in accordance with the Contract Documents. Failure on the part of the Engineer to discover and condemn or reject materials or work shall not be construed to imply acceptance of the same should their non-compliance become evident before Project Acceptance. It is expressly understood that nothing in this paragraph waives any of the City's rights under the guarantee provision of the Agreement.
- E. The inspectors shall at all times be free to perform their lawful duties, and any assault, battery, threat of harm, use of force to delay, impede or prevent the inspector from performing his lawful duties, or harassment of any inspector on the part of the Contractor or Contractor's agents or employees shall be sufficient reason for the City to terminate this Agreement, which the Engineer may recommend to the Mayor, for the City. At the Engineer's request the Contractor shall remove from the Project any employee making such threats or attempting such intimidation.
- F. Any construction work done by the Contractor within a City, County or State road or street system shall conform to the applicable State, County and City requirements for such work.

- G. Projects financed in whole or in part with State or Federal Funds shall be subject to the requirements of the agency concerned, and such agency shall have the right to inspect the Project at any time.

2.07 AUTHORITY AND DUTIES OF INSPECTORS.

- A. Inspectors shall be permitted to inspect all work done and all material furnished. Such inspection may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of the materials to be used. The inspector is not authorized to revoke, alter, or waive any requirements of the Contract Documents. The inspector is authorized to call the attention of the Contractor to any failure of the Work or materials to conform to the Contract Documents. The inspector shall have authority to reject materials and/or suspend the Work until the question at issue can be referred to and decided by the Engineer.
- B. The inspector shall in no case act or be considered as foreman or perform other duties for the Contractor nor interfere with the management of the Work by the latter. Any advice which the Inspector may give the Contractor other than as set forth in Paragraph A above shall not be construed as binding on the Engineer or the City in any way, or in any way releasing the Contractor from fulfilling all of the terms of the Agreement.
- C. If work is to be suspended, the inspector shall issue a written order from the Engineer giving the reason for shutting down the Work. After placing the order in the hands of the person in charge, any work done thereafter will not be accepted.

2.08 CONTRACT DOCUMENTS AT THE SITE.

When work is in progress, the Contractor shall maintain at the site one copy of the Contract Documents, including change orders and the reviewed shop drawings, in good order and marked to record all authorized changes made during construction. These shall be available to the Engineer at all times.

2.09 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK.

- A. All work which the Engineer deems defective or deficient shall be remedied or removed and replaced by the Contractor in a manner acceptable to City, and no compensation will be allowed for such correction.
- B. Upon failure of the Contractor to promptly remove defective or unauthorized work following notification of non-compliance by Engineer, Engineer shall have authority to cause defective work to be remedied or removed and replaced and unauthorized work to be removed, and to deduct the costs thereof from any monies due or to become due the Contractor.
- C. Any work done beyond the limits shown on the drawings or established in writing by the Engineer, or any extra work done without written authority, will be considered as unauthorized and no payment will be made therefore.

2.10 EQUIPMENT.

Equipment not suitable to produce the quality of work required will not be permitted to operate on the project. The Contractor shall provide adequate and suitable equipment to meet the work requirements, and when ordered by the Engineer, shall remove unsuitable equipment from the Work. No equipment or

machinery shall be operated upon or over paved streets, sidewalks, landscaped areas, paved areas or prepared roadway shoulders in getting to, from, or in working on a project which, in the opinion of the Engineer, may be injurious to said areas.

2.11 WORKING HOURS.

Construction work shall not be performed on the Project except during the hours between 7:00 A.M. - 7:00 P.M., Monday through Saturday, unless otherwise approved by the Engineer .

2.12 ASSISTANCE BY CONTRACTOR.

- A. The Contractor, at its sole cost, shall furnish the Engineer with any labor required and necessary for the thorough inspection, or removing of defective materials, or for thorough examination into any of the Work, or for any purpose required in the discharge of their respective duties.
- B. At the request of the Engineer, the Contractor at any time before acceptance of the Work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the Work to the standard required by the Contract Documents.

2.13 COORDINATION WITH RELATED WORK.

- A. Contractor may at times find its work adjacent to and possibly interfacing with the Work of other contractors who are under separate Agreement with the City or other agencies. Every effort must be made to coordinate the Work to leave a complete and finished work at the completion of the Agreement. Such work and coordination shall be without additional cost to the City.
- B. If two or more contractors under City Agreements with adjoining projects are unable to join their work in a manner acceptable to all, the Engineer will decide which contractor or contractors shall cease work temporarily and which shall continue. The City reserves the right to back charge any or all contractors for all costs incurred by the City or other contractors which are the result of the contractors not properly coordinating their work.

2.14 ACCEPTANCE OF PRIOR WORK.

Contractor warrants that its work under the Contract Documents will be properly executed in relation to any prior work with which Contractor's work must be compatible or integrated. Contractor shall carefully inspect such prior work and notify the Engineer in writing of any defects, improper workmanship or materials or other conditions that would impair the satisfactory execution and permanency of the Work. The Engineer may instruct the Contractor that no further work shall be executed until all such defects or conditions have been corrected or agreement reached regarding defects which may develop due to the defects. Further, failure of the Contractor to so inspect and report shall constitute an acceptance by the Contractor of the prior work as fit and proper to receive or be integrated with Contractor's work, and Contractor shall make such changes, at its cost, as are necessary to integrate the Work required by the specifications.

2.15 WORK PER MANUFACTURER'S DIRECTIONS.

All manufactured articles, materials or equipment, shall be applied, installed, connected, erected, used, cleaned and conditioned according to the manufacturer's written directions, unless specified in writing to the contrary by the Engineer.

2.16 CHARACTER OF SUBCONTRACTORS AND WORKMEN.

Contractor shall employ suitable and competent workers for every kind of work. If any subcontractor or person employed by the Contractor shall reasonably appear to the Engineer to be incompetent or to act in a disorderly manner, or in a manner which violates the law, or reasonably puts at risk the health, safety or the Work, or property of others, then at the Engineer's request, the Contractor shall immediately remove such persons(s) from the Project Work and such person(s) shall not be employed again in the Work until an agreement thereto has been reached by the Engineer and the Contractor.

2.17 CLEANUP AND SHUTDOWN.

The Contractor shall keep the construction area reasonably clean at all times and shall remove accumulated debris from the Project work site each day. At the end of each discrete portion of the Work, Contractor shall remove all debris, excess materials, tools, equipment, temporary buildings and barricades, etc., from the construction site as can reasonably be done, and shall clean all areas used in the performance of Work. In the event Contractor fails to so clean within a reasonable time, the City may, at its option and upon notice to the Contractor, clean the Construction site. In such event, Contractor shall pay the City the costs of such cleanup promptly upon the receipt of bills therefore, or the City may deduct the costs from any monies due or to become due to the Contractor. No trash, rubbish or debris shall be deposited in any stream or body of water or in any street or alley or upon any private property except by written consent of the City, and where private property of third parties is involved, with the written consent of the private property owner(s) or their lawful representatives. In the event that the owner of such property is other than the City, the Engineer shall be provided with a copy of the written agreement between the Contractor and the private property owner allowing the use of the private property, all of which shall be at the Contractor's sole expense.

2.18 LIMITATION OF ENGINEER'S RESPONSIBILITIES.

- A. Neither the Engineer, his designee, nor inspectors, etc. shall act or be considered as the Contractor's, subcontractors' or suppliers' superintendent or foreman or be a part of work force in any manner or form.
- B. Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgement, they will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective never indicates that Engineer shall have authority to undertake responsibility contrary to the provisions of paragraphs C or D below.
- C. Engineer will not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and Engineer is not responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

- D. Engineer is not responsible for the acts or omissions of Contractor or of any subcontractor, or of the agents or employees of any Contractor or subcontractor, of any persons at the site or otherwise performing any of the Work.

#### 2.19 FOLLOW LAWS, HAZARDOUS MATERIALS.

Contractor, at its expense, shall comply with all applicable laws, regulations, rules and lawful orders of federal, State or City officials, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal and water and air quality, and furnish satisfactory evidence of such compliance to the City upon request. Should any release, contamination, discharge, leakage, spillage, emission or pollution of any hazardous material occur upon or arise on the City's Right-of-Way or any other property as a result of Construction activities of Contractor or its agents or subcontractors, arising from or relating to the Work, Contractor, at its expense, shall be obligated to clean all property affected thereby, whether owned or controlled by the City or any third persons, to the satisfaction of the City (insofar as the property is owned or controlled by the City) and any federal, State or local government having jurisdiction in the matter. In the event Contractor fails to clean the Work site or area affected by the Contractor's release within a reasonable time to the City's reasonable satisfaction, the City may, at its option, clean any rights of way or other property owned or controlled by the City; if the City elects to do so, Contractor shall pay the City the costs of such cleanup promptly upon the receipt of bills therefor. Contractor agrees to release, protect, indemnify, defend and hold the City harmless from and against all loss, liability, cost and expense (including, without limitation, any fines, penalties, judgments, litigation costs and reasonable attorney fees) arising from Contractor's breach of this section, or as a result of any release, discharge, leakage, spillage or emission of Hazardous Materials or any other pollution, arising as a result of the work to be done by or for Contractor hereunder during the Construction period, regardless of whether such Loss, liability, cost or expense arises during the time this Agreement is in effect or thereafter.

### **PART 3.00 CONTROL OF MATERIALS**

#### 3.01 SOURCE OF SUPPLY AND QUALITY OF MATERIAL.

The Contractor shall furnish all materials required to complete the Work except materials that are designated in the Special Provisions to be furnished by the City or in accordance with these General Conditions. Only materials conforming to the requirements of the Contract Documents shall be incorporated in the Work. The materials furnished and used shall be new, except as may be otherwise provided in the Contract Documents. The materials shall be manufactured, handled and used in a workmanlike manner to insure completed work in accordance with the Contract Documents. The Contractor shall furnish without charge such samples as may be required. Inspection and tests will be made by the Engineer or his designated representative. Inspections and tests made at any point other than the point of incorporation in the Work in no way shall be considered as a guarantee of acceptance of such material, or of a continued acceptance of material presumed to be similar to that upon which such inspections and test have been made.

#### 3.02 CITY FURNISHED MATERIALS.

- A. Materials furnished by the City, if any, will be available at locations designated in the plans and/or the Special Provisions for loading, transport to the Work site and unloading by Contractor at Contractor's expense, or if not, they will be delivered by City to the Project work site. The cost of handling and/or relocating City furnished material on the site shall be at Contractor's expense.

- B. Before removal of such materials from said designated locations, or acceptance of delivery, Contractor shall inspect and reject in writing such City furnished materials that are defective. After removal from such locations or acceptance of delivery, Contractor shall be responsible for all materials furnished, and Contractor shall pay all demurrage and storage charges. Additionally, materials or equipment lost or damaged from any cause whatsoever shall be replaced by Contractor.

### 3.03 STORAGE OF MATERIALS.

- A. All work or storage of materials shall occur within the construction area as shown on the drawings. Route of delivery of large or bulky materials and equipment shall be as specified herein, or as determined by the Engineer, which is often discussed at the time of the preconstruction conference. If additional storage area is required, it shall be the Contractor's responsibility to obtain it. If private property is used, Contractor will provide a copy of the written permission to the Engineer.
- B. Materials and equipment shall be stored so as to insure the preservation of their quality, quantity, and fitness for the Work. Stored equipment and materials shall be located so as to facilitate inspection.

### 3.04 DEFECTIVE MATERIALS.

All material which the Engineer has determined does not conform to the requirements of the Contract Documents will be rejected, whether or not in place. The material shall be removed immediately from the site of the Work unless otherwise permitted by the Engineer. No rejected material shall be used in the Work unless approval in writing has been given by the Engineer. Upon failure of the Contractor to comply promptly with any order of the Engineer made under the provisions of this paragraph, the Engineer shall have the authority to cause the removal and replacement of rejected material and to deduct the cost thereof from any monies due or to become due to the Contractor.

### 3.05 PLANT INSPECTION.

The Contractor shall provide in its contracts for materials, and shall assist the Engineer to inspect the production of materials or the manufacture of products at the source of supply. To the extent that the Contractor can contract for or so control, the Engineer shall have free entry at all times to such parts of the plant as concerns the manufacture or production of the materials. The Contractor's contracts with suppliers shall provide that the Engineer shall have adequate facilities furnished free of charge by the Contractor or supplier to make the necessary inspection. Notwithstanding the foregoing, the City assumes no obligation to inspect materials at the source of supply.

### 3.06 CERTIFICATES OF COMPLIANCE.

The Engineer may permit the use of certain materials or assemblies prior to sampling and testing if accompanied with a certificate of compliance stating that materials involved comply in all respects with the requirements of the Agreement and City Standard Specifications and Details for Municipal Construction. The certificate shall be signed by the manufacturer of the materials or the manufacturer of the assembled material. If requested by the Engineer or the City's Inspector, the certificate of compliance must be furnished with each line of material delivered to the Work and the line so certified must be clearly identified in the certificate. All materials used on the basis of a certificate of compliance may be tested at any time. The fact that material is used on the basis of a certificate of compliance shall not release the

Contractor from the responsibility of incorporating the material in the Work which conforms to requirements of the Agreement and at any place that it doesn't conform, shall be removed and replaced at the Contractor's expense. The City reserves the right to refuse to permit the use of material on the basis of a certificate of compliance. The form of a certificate of compliance and its disposition shall be as directed by the Engineer.

### 3.07 TESTING MATERIAL

- A. All testing for control and acceptance will be the responsibility of the Contractor and shall be performed at the Contractor's expense.
- B. Any retesting of work or materials rejected by the City, after the initial testing, shall be at Contractor's expense.

### 3.08 USE OF CITY WATER SUPPLY.

Contractors desiring to use water shall comply with City ordinances and the rules of the Department of Public Utilities and shall under no circumstance use water from the City waterworks system, fire hydrants or other source without first contacting and making proper arrangements with and payments to the Department of Public Utilities.

- 1) In order to use the City water supply, contractors shall make arrangements to obtain a meter, and to pay all necessary charges.
- 2) Contractors will be held responsible for any damage caused by the Contractor or their representatives to fire hydrants, or to the City water by contamination, or the City waterworks system.

### 3.09 PUBLIC UTILITIES.

Contractor shall provide and pay for all utilities and City water used in the Work or necessary to complete the Work.

### 3.10 CASTING, ETC., TO REMAIN THE PROPERTY OF CITY.

Unless the Engineer otherwise agrees in writing, all castings, grates, special fittings, hydrants, valves, valve boxes, pipe, etc., removed shall remain the property of City and must be delivered to the City at such location and when the Engineer may reasonably direct.

## **PART 4.00 LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC**

### 4.01 LAWS TO BE OBSERVED.

The Contractor shall keep himself fully informed of all applicable Utah State and Federal laws and all municipal ordinances and regulations of the City which in any manner affect those engaged or employed in the Work or the materials used in the Work, or which in any way affect the conduct of the Work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Contractor shall at all times observe and comply with and shall cause all Contractor's agents and

employees to observe and comply with all such existing laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority over the Work.

#### 4.02 LICENSES AND PERMITS REQUIRED.

All paving, street construction, and utility installation within City rights-of-way shall be performed by a contractor licensed and bonded in The City. A permit shall be secured by the Contractor from the Public Works Department **and approved by the Engineer** at least 48 hours before initiating construction. Sandy City's Inspector shall be notified by the Contractor at least two working days before the planned construction is to commence and also before starting work whenever construction is delayed for any reason. The Police Department and the Sandy City Fire Department must be notified not less than 48 hours in advance of the intended closure of any streets or public way.

#### 4.03 PATENTS AND TRADEMARK.

Prior to beginning work, the Contractor shall inform the Engineer of any work it intends to perform which is covered by the Standard Specifications and Details for Municipal Construction on which Contractor expects to use equipment, materials, devices, or processes which require a patent or trademark license. Contractor shall not perform any work covered by the Standard Specifications and Details for Municipal Construction on which Contractor expects to use equipment, materials, devices, or processes which violates any patents or trademarks, or which Contractor believes or has reason to believe violates any patents or trademarks.

#### 4.04 PUBLIC CONVENIENCE AND SAFETY.

- A. Contractor shall so conduct Contractor's operations as to cause the least obstruction and inconvenience to vehicular or pedestrian traffic as reasonably possible. Unless otherwise designated in the plans and/or Special Provisions, all vehicular and pedestrian traffic shall be permitted to pass through the Work and shall be controlled at Contractor's expense pursuant to Utah law.
- B. The Contractor shall meet all requirements set forth in the current edition of the Manual on Uniform Traffic Control Devices (MUTCD). The Contractor shall develop and submit a traffic control plan to City Transportation Engineer for review and approval at least two working days prior to work.
- C. Contractor shall not load or permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

#### 4.05 RESPONSIBILITY FOR DAMAGE.

The City, its officers, employees and agents, and any Consulting Engineer employed by the City and his employees and agents shall not be answerable or accountable in any manner for any loss or damage that may happen to the Work or any part thereof; for any material or equipment used in performing the Work; for injury to property and /or person or persons; and/or for damage to property not caused by the City.

#### 4.06 CONTRACTOR'S RESPONSIBILITY FOR WORK.

Except as provided above, until project final acceptance, Contractor shall have the charge and care for the Work and shall bear the risk of injury or damage to any part thereof by any acts of God or the elements or from any other cause. Contractor shall rebuild, repair and restore, and make good all injuries or damages to any portion of the Work occasioned by any of the above causes before project final acceptance and shall bear the expense thereof.

#### 4.07 SAFETY PROGRAM.

The Contractor shall institute a safety program at the start of construction to minimize accidents. Such program shall continue to the end of the job and conform to the latest general safety orders of the State Industrial Commission, as contained in the then current Utah Occupational Safety and Health Act. The manual of Accident Prevention in Construction may be used as a guideline for safety practices.

#### 4.08 CONTRACTOR NOT AN AGENT OF CITY.

The Contractor, its employees, subcontractors, and agents shall follow the State and local laws and regulations, and shall comply with the lawful directions of the City Engineer, or his designees in respect to conformity to the laws and ordinances of the State of Utah, and the City, as well as the City's Standards and Specifications. The Contractor, its agents or subcontractors, are independent contractors and not agents, partners or joint venturers with the City. The liability of the Contractor for all damages to persons or to public or private property, arising from the Contractor's execution of the Work, shall not be diminished because of such general supervision.

#### 4.09 INSPECTION AND PAYMENTS CONSTITUTE NO WAIVER OF AGREEMENT PROVISIONS.

No inspection by the Engineer or an inspector, no payment of money, or acceptance of part or all of the Work by the City or its agents shall operate as a waiver of any provision of the Agreement.

#### 4.10 WORKERS COMPENSATION INSURANCE.

In addition to other required insurance, the Contractor shall obtain and maintain during the life of the Agreement, Workmen's Compensation in the amounts required by law for employees employed at the site of the Project. In case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees in the amounts required by law, unless such employees are covered by alternative protection as required by Utah law.

#### 4.11 PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE.

The Contractor shall take out and maintain during the life of the Agreement and at all times thereafter when Contractor may be correcting, removing or replacing defective work, a comprehensive general public liability and property damage insurance policy to protect Contractor and any subcontractor performing work covered by the Agreement from claims for damages for personal injury, including accidental death, and from claims for property damage which may arise from Contractor's operations under the Agreement, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them, with the City as an additional named insured. Contractor will furnish concurrent with signing the Agreement a certificate of insurance verifying such coverage. The minimum amounts of such insurance will be as set forth by the City in **Exhibit A**, attached to the Agreement.

4.12 GUARANTEE.

- A. All work shall be and is guaranteed by the Contractor for a period of one (1) year from and after the date the City gives notice of Project Acceptance for Maintenance .
- B. If within said period repairs or corrections become necessary due to failure in the guaranteed work, the Contractor shall promptly upon actual notice of receipt of written notice from the City, and without expense to the City; (1) place in satisfactory condition in every particular all guaranteed work and correct all defects therein; and (2) make good all damages to the facilities or equipment, provided by the Agreement, which are the result of the failed Work, except when such failures or defects are the result of City or City consultant design deficiencies, acts of God, use or misuse by the City or general public, or due to vandalism.
- C. All such rework by the Contractor under this guarantee clause shall be guaranteed by the Contractor for one (1) year from the date of the City's acceptance of the rework.
- D. If the Contractor, after notice, fails within fifteen (15) days to proceed to comply with the terms of this guarantee, the City may have the defects corrected, and the contractor and Contractor's surety shall be liable for all of City's expense incurred. In cases of an emergency nature where, in the opinion of the Engineer, delays in repair could cause serious loss or damage, temporary repairs may be made by the City without notice being given to the Contractor and the Contractor shall pay for the cost thereof.

4.13 DISPOSAL OF MATERIAL.

The Contractor shall make its own arrangements for disposing of materials in approved landfills required to be removed from the site and pay all costs involved.

4.14 PROTECTION OF EXISTING UTILITIES AND PROPERTY.

- A. The Contractor shall protect from damage or injury trees, shrubbery, pole lines, fences, signs, markers, monuments, buildings, structures, conduits, pipe lines under or above ground, sewer lines, water lines, all street facilities, and any other improvements or facilities within or adjacent to the project which are not to be removed. The Contractor shall provide and install suitable safeguards, to protect such from injury or damage. If they are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored equal to or better than previously existing at the Contractor's expense. The Engineer may make or cause to be made such temporary repairs as are necessary to restore to service any damaged facility. The cost of such repairs shall be borne by the Contractor and, if paid by the City, may be deducted from any monies due or to become due to the Contractor under the Agreement.
- B. Full compensation for furnishing all labor, material, tools, equipment and incidentals, and for doing all the Work involved in protecting or repairing property as specified in paragraph A, above, shall be considered as included in the price paid for the items of work and no additional compensation will be allowed therefor.

4.15 LOCATING EXISTING UTILITIES.

- A. The information shown or indicated in the Contract Documents with respect to the location of existing utilities at or contiguous to the site is based on information furnished to City by the

owners of such utilities and is provided as a convenience to the Contractor and its subcontractors. The Contractor or its subcontractors should independently verify all such information.

- B. Unless it is otherwise expressly provided by written agreement, the Contractor shall have full responsibility for reviewing and verifying all such information with Blue Stakes or the utility, or water, sewer or other district in order to locate all utilities shown or indicated in the Agreement. The Contractor shall be responsible for coordination of the Work with the owners of such utilities during construction, for the safety and protection thereof, and for repairing any damage thereto resulting from the Work, the cost of all of which shall be borne by the Contractor.

#### 4.16 UTILITIES NOT SHOWN OR INDICATED.

If a utility is uncovered or revealed at or contiguous to the site which was not shown and the Contractor could not reasonably have been expected to be aware of it, Contractor shall, promptly after becoming aware thereof and before performing any work affecting the utility or affected thereby, inform the owner of such utility and give written notice thereof to that owner and to the City. The Engineer may review the utility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the utility, and the Contract Documents may be amended or supplemented to the extent necessary. During such time, Contractor shall be responsible for the safety and protection of such utility.

#### 4.17 SEVERABILITY CLAUSE.

Whenever possible, each provision of these general conditions shall be interpreted to be valid under applicable law. In the event that any condition, covenant or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of these regulations and shall in no way affect any other covenant or condition herein contained if it can reasonably be done. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

### **PART 5.00 PROSECUTION AND PROGRESS**

#### 5.01 SUBCONTRACTS.

- A. When any part of the Work being performed in any Street or on City property which has been subcontracted is being prosecuted in a manner which endangers the property of the City or of third persons, or life, health or safety, or which violates these Standard Specifications, any contract with the City, or any laws, ordinances or regulations, then the Engineer may require the subcontractor or other person in default to immediately correct the violation. If the person fails to do so, then the Engineer may, in his reasonable discretion, order the person to cease work, to remove any dangerous equipment, material, or condition from the Street or City property, and to make the Work area safe according to the MUTCD or other standards, or as the Engineer shall direct. The City and the Engineer shall be held harmless for any loss or damage incurred arising from such violation or the person's cessation and removal from the Work. In such a case the City shall not be required to pay any additional compensation for stopping, correcting, removing from, or completing the Work. Any cease work order by Engineer may be appealed by the Permittee to the Public Works Director by filing a written notice of appeal within ten days of the action of the

Engineer. The Public Works Director shall hear such appeal, as soon as practicable, and render his/her decision within a reasonable time following filing of notice of appeal.

- B. The Contractor shall give personal attention to the fulfillment of the Agreement and shall keep the Work under control. All persons engaged in the Work of construction shall be considered controlled by Contractor and Contractor will be held responsible for their work, which shall be subject to all provisions of this Agreement.
- C. The Contractor agrees to be fully responsible to the City for the acts and omissions of said subcontractors and of persons either directly or indirectly employed by them in the same way as Contractor is for the acts and omissions of Contractor's own employees.
- D. No agency or company which is or has been under contract to the City to provide designs, design reviews, soil testing, materials testing, surveying, and/or any other such functions associated with the design phase of the Project shall be used as a Subcontractor by Contractor.
- E. Nothing contained in the Contract Documents shall create any contractual relations between any subcontractor and the City.

#### 5.02 START OF WORK.

Once contract documents have been executed, Contractor will receive Notice to Proceed and shall commence work within ten (10) calendar days thereafter.

#### 5.03 SUBSTANTIAL COMPLETION AND PROJECT ACCEPTANCE FOR MAINTENANCE.

- A. Before written notice of substantial completion will be granted by the Engineer, the Work shall be, in the opinion of the Engineer as evidenced by Engineer's written notice to the Contractor, in a state of completion in accordance with the Contract Documents and these Standard Specifications, so that the City can reasonably and safely utilize the facility for the use for which it is intended, only occasional construction personnel and equipment are required for correcting unfinished or defective work, and the remaining work will not interfere with the work area's intended use or occupancy.
- B. Before the Engineer will designate a Project Acceptance for Maintenance date, the Contractor shall perform a general cleanup of the area and certify in writing that all Work is complete (100 percent) and in accordance with the Contract Documents and the Standard Specifications.
- C. The process of substantial and project final acceptance is set out in Part 3 of Section 01705 of the Standard Specifications and Details for Municipal Construction, including the Contractor's obligation to initiate the process.

#### 5.04 PUNCH LIST WORK.

- A. Within a reasonable time after final inspection by the Engineer and the Contractor, the Engineer shall deliver to the Contractor a punch list of items of work which remains to be done according to the Agreement before the Engineer will deliver a written notice of Project Acceptance for Maintenance to the Contractor.

- B. The Contractor shall complete all items on the punch list, within thirty (30) calendar days from the time the last punch list item is delivered in writing to the Contractor, unless exemptions of specific items are granted by the Engineer in writing.
- C. The City may from time to time add to the punch list items of the Work which the City discovers are incomplete or defective, after the issuance of the first punch list and before the acceptance of the corrections, which added punch list items will be considered an integral part of this approval process.
- D. Liquidated damages shall be collected or retained from payments to the Contractor by the City to cover damages, including the City's inspection and administrative costs arising from the Contractor's failure to complete all punch list items within the thirty (30) day punch list time limit.
- E. Subject to the City's right to retain liquidated damages, the City reserves the right to retain all amounts previously withheld or due the Contractor, until all punch list items are complete to the satisfaction of the Engineer.
- F. The Contractor shall continue to carry the insurance coverage required under Articles 4.10 and 11 of these General Conditions hereof in full force and effect until the one year warranty period has expired and the City has granted final acceptance of the project.

5.05 TEMPORARY SUSPENSION OF WORK.

- A. The City shall have the authority to suspend the Work wholly or in part for such period as City may deem necessary due to unsuitable weather or to such other conditions City reasonably considers unfavorable for suitable prosecution of the Work in the interest of the public health, safety and welfare, and for such time as City may deem necessary due to the failure on the part of the Contractor to carry out orders given by the Engineer, or perform any provision of the Agreement. The Contractor shall immediately comply with the written order of the City to suspend the Work wholly or in part and there shall be no claim against or liability on the part of City for such suspension. The suspended work shall be resumed when the Engineer notifies the Contractor that conditions are favorable and methods are corrected as ordered or approved in writing by the Engineer.
- B. In the event the suspension of work is ordered, the Contractor, at its expense, shall do all the Work necessary to provide a safe and secure work site. If pedestrian and/or vehicular access is required through the construction site, a smooth and unobstructed passageway shall be provided for use by the public during the period of such suspension as provided in Articles 4.04 and 4.06 hereof, and as specified in the Special Provisions. In the event the Contractor fails to perform this work, the City may perform such work and the Contractor shall pay to the City the amount thus paid by the City within 30 days after receiving a written statement setting out the work performed by the City on Contractor's behalf as set out herein. If the payment is not received within 30 days, the City may deduct the costs thereof from any monies due or to become due to the Contractor.
- C. If a suspension of work is ordered by the Engineer due to the failure on the part of the Contractor to carry out orders given, or to perform any provision of the Agreement, the days on which the suspension order is in effect shall be considered Agreement working days. In the event of a suspension of work under any of the conditions set forth in this Article, such suspension of work

shall not relieve the Contractor of its responsibilities set forth in Part 4.06 of these General Conditions.

5.06 DELAYS AND EXTENSION OF TIME.

- A. If the Contractor is delayed at any time in the progress of the Project work by any act or neglect of the City or by any of its employees, or by any separate contractor employed by the City, or by changes ordered in the Project, or by labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipated, utility relocation by utility companies, unavoidable casualties or any causes beyond the Contractor's control, the date for Project Acceptance for Maintenance shall be extended by the Engineer for a reasonable length of time in the Engineer's discretion. Any extension shall be set forth by a change order executed by both parties.
- B. The time allotted by the Agreement allows for normal local prevailing weather condition; therefore, delays related to weather shall not be allowed unless the weather is unusually severe and actually delays work on the critical path as defined by the Contractor's approved construction schedule. Also, for weather to be considered justification for extensions in Agreement completion dates, the weather conditions for the total length of the Work shall be considered. It shall be the Contractor's responsibility to gather all data and prepare all reports to support any requests for time extensions due to weather. Extensions of time for delays due to weather will not be considered until the contract has been completed.
- C. Except for delays due to weather, the Contractor shall, within five (5) working days from the beginning of any delay, notify the Engineer in writing of the delay, its cause and potential impact to the construction schedules. The Engineer may request further information, but will, within the later of twenty (20) days from the date notice is received, the last day of the delay period or the last information requested is supplied, grant or deny an extension of time in writing. Any extension of time shall be made only by Change Order.

5.07 SANITARY PROVISIONS.

During the entire progress of the Work, the Contractor shall provide and maintain proper toilet facilities for all employees. Sanitary facilities shall be provided by the Contractor at proper intervals along the street or on the project site.

5.08 ADDITIONAL CITY REQUESTED WORK.

- A. The City shall have the right to make any changes in the Contract Documents or quantities that may hereafter be determined as necessary or desirable either before or after the commencement of the Work by defining them in writing, and such changes shall not make void the Agreement. In case such alterations increase, diminish or eliminate any of the quantities stated in the bid forms (if provided), the Contractor shall be paid for the Work actually done and materials supplied according to agreed upon prices in the change order, or, if no such agreement is reached, then at the Agreement rates, if applicable, or according to agreed upon prices in the change order. Such alterations shall not, under any circumstances, be construed as constituting a basis for a Contractor claim for damages. Further, no claim shall be made for anticipated profits on the Work that may be dispensed with or altered, except as provided below.

- B. The Contractor agrees to accept and perform the additional work the same as if it had been a part of the original Agreement, unless the change involves the following:
- (1) An enlargement or reduction of the Work under the original Agreement by more than twenty-five percent (25%).
  - (2) A change in the nature of the design or in the character of construction which measurably increases or decreases the cost of performing any item of work.
- C. In all other cases, the Work involved in any changes shall be performed on the basis of the Agreement unit prices. All changes affecting time and cost must be in writing and approved by the Engineer and Contract Administrator. Contractor may begin work only after approvals are given.

#### 5.09 UTILITY REARRANGEMENT.

Should the Contractor desire a rearrangement made in any utility facility for Contractor's convenience in order to facilitate construction operations, which is in addition to or different from the arrangements indicated on the drawings or in the Special Provisions, Contractor shall make such arrangements as are necessary with the utility and bear all expenses in connection therewith.

### **PART 6.00 MEASUREMENT AND PAYMENT**

#### 6.01 SCOPE OF PAYMENT.

The Contractor shall accept the compensation provided for in the Agreement as full payment for furnishing all labor, materials, tools, permits, fees, licenses, equipment and incidentals necessary for performing all work contemplated under the Agreement and for loss or damage arising from the nature of the Work or from the action of the elements or from any unforeseen difficulties which may be encountered during the prosecution of the Work until project final acceptance by the City.

#### 6.02 EXTRA WORK.

- A. Except as provided in Article 5.08 of the General Conditions, an increase in the quantity of any kind of work or material on which a unit price is bid will be paid for at the unit prices named in the bid. If, however, new, additional, or work work could not reasonably be foreseen, or work which, due to its character, operating conditions or locations do not conform to the Contract Documents and unit prices upon which bids have been received and provided for in the Agreement, then such work or material will also be considered as "Extra Work" and shall be executed by the Contractor, in the manner and under the terms set forth in a change order which will be entered into between the City and the Contractor. The change order shall be prepared in writing, specifying the Work to be done, adjustments, and/or extension of time, if any, and the basis of compensation. No extra work shall be performed or paid for without a written order for such work.
- B. Extra work called for by change order shall be performed fully and completely and in accordance with the original Contract Documents except for the specific change mentioned in the written order. Drawings accompanying such orders shall be deemed a part of the order.

## **PART 7.00 DISPUTES AND APPEALS**

### **7.01 APPEALS TO THE DEPARTMENT HEAD.**

- A. The Contractor may not bring a claim against the City arising from a decision of the Engineer before completing the following appeal process.
- B. The Contractor may appeal the decision of the Engineer by filing a written protest with the head of the City department administering the subject work. The appeal shall contain the following information:
  - (1) The Contractor's name, mailing address and daytime telephone number, the signature of an authorized officer of the Contractor and the date the appeal is signed; and
  - (2) The relief sought, a statement of facts, a recitation of the reasons, and any legal authority available to Contractor in support of the protest sufficient to permit review.
- C. The City department head may designate another individual to assist in reviewing the matter, which assistance may include finding facts, analyzing the protest, and making recommendations to the department head.
- D. The City department head or his designated representative may request additional information from the protesting party or from other persons which are reasonably deemed needed to make an informed determination. The Contractor shall provide all information requested by the department head or his designee reasonably needed to decide the protest except information which is protected from disclosure by law.
- E. The department head or his designee shall review and decide protests, and shall issue a written determination to the Contractor.
- F. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of the contract except where doing so would violate any City order, and in accordance with the City's decision.

### **7.02 DISPUTES NOT RELATED TO THE GUARANTEE OF THE WORK.**

- A. Any dispute arising under the Construction Contract or these rules concerning a question of fact, not related to the guarantee of the Work (Section 4.12 above), which is not disposed of by contract Modification shall be decided pursuant to the following procedure.
- B. The Contractor may appeal the decision of the Engineer by filing a written protest with the head of the City department administering the subject work. The appeal shall contain the following information:
  - (1) The Contractor's name, mailing address and daytime telephone number, the signature of an authorized officer of the Contractor and the date the appeal is signed; and

- (2) The relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review.
  - C. The City department head may designate another individual to assist in reviewing the matter, which assistance may include finding facts, analyzing the protest, and making recommendations to the department head.
  - D. The City department head or his designated representative may request additional information from the protesting party or from other persons which are reasonably deemed needed to make an informed determination. The Contractor shall provide all information requested by the department head or his designee reasonably needed to decide the protest except information which is protected from disclosure by law.
  - E. The department head or his designee shall review and decide protests, and shall issue a written determination to the Contractor.
- 7.03 WORK DURING APPEAL. Notwithstanding the pendency of any protest or appeal provided above, Contractor shall, unless otherwise ordered by Engineer in writing, proceed diligently with the performance of the Work under the Contract Documents according to Engineer's direction and according to the decision on any appeal. The existence of a claim or protest shall not excuse Contractor from the requirements of the Contract Documents, including, but not limited to, the Contract Time. Any decision of City to terminate or suspend the Work shall not be subject to the provisions of this section 7.03.

END OF SECTION